

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

Docket No. DG 17-048

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
d/b/a LIBERTY UTILITIES

Distribution Service Rate Case

Response to Staff's Objection to Motion for Rehearing

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities (“Liberty” or the “Company”), through counsel, respectfully responds to Staff’s *Objection to Liberty Utilities’ Motion for Rehearing*. In this response, Liberty refutes Staff’s argument that the Order’s implementation of Rate Design on May 1, 2018, did not cause Liberty harm, and Liberty suggests that a hearing would be appropriate to discuss and resolve the proper measure of that harm, an admittedly complex issue.

1. The Company’s Motion for Rehearing raised one issue with two components – first, whether Liberty was unreasonably harmed by the Order’s implementation of Rate Design on May 1, 2018, six months before implementing decoupling on November 1, 2018; and second, if so, whether the impact to the Company is \$3 million, as Liberty calculated. Staff’s objection challenged both points.
2. In this response, the Company will not repeat its motion for rehearing, but will respond to specific allegations and arguments in Staff’s objection.
3. The core of Staff’s objection appears on page 3 of its Objection:

The Order authorized rates designed to collect an additional \$8.06 million in revenues on an annual basis, not in 2018. The approved rates are designed to collect the additional \$8.06 million over a 12 month period beginning May 1, 2018,

the effective date of new rates. The amount collected in 2018 is not relevant to this case, because calendar year 2018 is not the rate year (also sometimes referred to as the rate effective period.)

(Emphasis added.)

4. The flaw in Staff's argument is the characterization that the Order allowed Liberty to collect the new rates as of May 1, 2018, rather than as of July 1, 2017, the date temporary rates went into effect. The Order (at pages 51-52) and RSA 378:29 clearly authorized recoupment of the difference between temporary and permanent rates retroactive to the July 1, 2017, effective date of temporary rates. Thus, the Order authorized Liberty to collect the \$8.1 million increase for *every* 12 month period beginning July 1, 2017, including the 12 month period of January 1 through December 31, 2018.
5. Thus, Staff's discussion of the "rate effective period" being 12 months and not necessarily calendar year 2018 is incorrect. The Commission plainly approved Liberty to collect the \$8.1 million increase beginning July 2017, which means Liberty has the right to collect \$8.1 in calendar 2018 (whether that is the "rate effective" period or not).
6. It is Liberty's inability to collect the full \$8.1 million increase in calendar 2018, which inability Staff does not seem to contest, that is the problem addressed by the Company's motion for rehearing.
7. The inability to collect the approved rate increase flows from the May 1, 2018, effective date for Rate Design. The reduction of fixed charges as of May 1, 2018, cannot be offset by the increases variable charges during the remaining months in 2018.

8. Liberty chose November 1, 2018, as an appropriate date to effectively implement the Rate Design because that is when the Order directed decoupling to go into effect, and because the Order (and the testimony during the hearing) made clear that the two are linked.¹
9. Staff criticized Liberty for choosing November 1, suggesting the calculation of harm should include the months of November and December, 2018. Objection at 3. Staff also suggested that Liberty should prepare other calculations of the harm caused by the Rate Design timing issue. *See* Objection at 5-6. Liberty acknowledges that there are several approaches that could fairly measure the harm in question, and Liberty is willing to prepare the requested calculations. A written back-and-forth on these complex calculations, however, will be confusing. Liberty suggests the best way to arrive at a reasonable solution is to conduct a hearing at which witnesses can present and explain the alternatives.
10. Liberty's also responds to Staff's incorrect statement that Liberty had the opportunity to cure the error that is the cause of the Motion for Rehearing, and Staff unfairly suggested that Liberty is the source of the timing issue: "Had Liberty wished to push back the effective date of its proposed rates (or move up the date of its decoupling mechanism in order to synchronize these dates – as Liberty now claims is essential to the order being lawful) Liberty could have requested such relief during the proceeding." Order at 2. "[B]oth the May, 2018 implementation date for new rates and the November 1, 2018 implementation date for decoupling were proposed by Liberty in the Settlement it filed with the OCA." Objection at 4.

¹ Liberty's motion cited the references to the Order linking Rate Design and decoupling (at pages 1, 48), and the hearing transcript amply supports the Commission's finding. *See* Day 5, morning session transcript, at 61, 63, 78-80; Day 5, afternoon session transcript, at 34-37, 95 (testimony of Greg Therrien and Dr. Benjamin Johnson).

11. It is correct that Liberty requested the May and November 2018 implementation dates for Rate Design and decoupling, respectively, but those were but two pieces of a comprehensive, interdependent, negotiation resulting in a wide-ranging Settlement Agreement that resolved all issues in this docket as between the OCA and Liberty.
12. The Commission “reject[ed] the settlement in its entirety.” Order at 8. Having thrown out the settlement “in its entirety,” it is thus unreasonable, and unfair, to cherry-pick items from a rejected settlement and characterize those isolated terms as being the Company’s “proposal.” Neither Staff nor the Commission can rely on the Settlement Agreement’s dates for implementing Rate Design and decoupling as Liberty’s “proposal.” The Commission independently chose those dates for its Order, not Liberty. Not knowing what components of the now broken settlement the Commission would choose to include and exclude in its Order, there was no opportunity for Liberty to have “requested such relief during the proceeding.”

WHEREFORE, Liberty respectfully asks that the Commission:

- A. Grant Liberty’s motion and find that the Order’s timing of Rate Design and decoupling implementation dates caused Liberty harm;
- B. Conduct a hearing to take evidence on the best method to calculate and recover that harm; and
- C. Grant such other relief as is just and reasonable and consistent with the public interest.

Respectfully submitted,
Liberty Utilities (EnergyNorth Natural Gas) Corp.
d/b/a Liberty Utilities

By its Attorney,



Date: June 6, 2018

By: _____

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Certificate of Service

I hereby certify that on June 6, 2018, a copy of this motion has been electronically forwarded to the service list.



By: _____

Michael J. Sheehan